



NATIONAL COUNCIL ON DISABILITY DOCKET FILE COPY ORIGINAL

An independent federal agency working with the President and the Congress to increase the inclusion, independence, and empowerment of all Americans with disabilities.

In The Matter of Electronic Filing of Documents
Federal Communications Commission Docket GC 97-113

Comments Submitted by
National Council on Disability
May 21, 1997

RECEIVED
MAY 21 1997
Federal Communications Commission
Office of Secretary

1. Introduction

The National Council on Disability (NCD) is an independent federal agency with a 15 member board appointed by the President and confirmed by the Senate. Our mandate is to advise the administration and Congress on public policy affecting people with disabilities. We appreciate the opportunity to submit comments on these proposed regulations.

NCD wishes to express its appreciation to the Federal Communications Commission for the opportunity to submit these comments.

2. Background

Few measures proposed by the Commission are likely to meet with such universal approbation as its initiative to facilitate the filing of comments electronically in connection with a variety of Commission proceedings. As the NPRM notes, broad-based support was expressed for such an approach by commenters responding to its recent Notice of Inquiry (See n.8 and accompanying text.)

The Commission itself has explained the principal factors and objectives giving rise to the electronic filing initiative, of which this NPRM, dealing specifically with notice and comment rule-making proceedings is a part. NCD understands that the Commission intends to continue developing, implementing and refining methods and strategies for maximizing the use of electronic information submission, retrieval and dissemination efforts, in connection with a variety of proceedings and in the broad range of regulatory, informational and adjudicatory contexts. NCD commends the Commission for this initiative, and strongly endorses its conclusions regarding the benefits that will flow from such an effort to make contemporary electronic information technology not merely a subject, but a tool, in the Commission's work and in its outreach and relationship to the public.

3. Major Impact on Persons with Disabilities

As members of the public, Americans with disabilities of course share with all other citizens an interest in issues confronting the Commission in the fulfillment of its responsibilities.

002

But with the introduction into the law of provisions bearing specifically on telecommunications system access for persons with disabilities, that interest has taken on an additional dimension. For many people with disabilities, the opportunity to electronically access Commission documents, to submit timely comments, and to review the comments of others will constitute, not merely a convenience, but the difference between the ability to participate and needless exclusion from the process.

In this light, NCD notes the Commission's observation that some forty million Americans currently have access to the global Internet (n.11 and accompanying text). Americans with disabilities are estimated to exceed this number, and like Internet users, their ranks are steadily growing.

4. The Current Process

Sharing the hope that utilization of electronic modalities will proceed as fully and as rapidly as possible, NCD supports the approach the Commission has adopted in connection with the scope and pace of implementation. The Commission has adopted a careful, step-by-step approach to implementation of its electronic access initiative. NCD understands and supports the rationale for, and the prudence of, such an approach. The Council recognizes that different procedural contexts and different types of documentation will pose new and diverse issues for the development of a comprehensive electronic information strategy. NCD also appreciates the Commission's clear recognition that implementation issues will prove to be the measure of the feasibility and success of its initiative. Without careful attention to the innumerable details of implementation, even the most universally accepted policy goals are likely to face difficulties. Accordingly, NCD is particularly grateful to accept the Commission's invitation to comment on the details of implementation connected with this NPRM and with future steps in the operationalization of the Commission's policy.

The current process is important for an additional reason as well. As the federal agency charged, more than any other, with responsibility for development of the legal framework for the information age, the Commission is likely to be looked to as a model for use of such technology in its own work. As such, the decisions it makes and the implementation strategies it pursues are likely to serve as a model for a variety of other governmental and even private sector entities, whether the Commission intends it or not. For this reason, the ability of the Commission to develop implementation strategies that are inclusive may have an impact on the ability and willingness of other entities to do so, in other words an impact going far beyond the Commission's formal jurisdiction.

5. Avoidance of Needless Barriers

By according formal and official parity to electronically filed comments, the Commission takes a major step toward eliminating barriers to participation by the public in its important deliberations. To the degree that persons with disabilities are likely to represent a significant subgroup of the concerned and newly-included public, it is vital that the Commission pursue its

implementation strategy in a manner that avoids the inadvertent creation of any new barriers to the fullest possible participation of these citizens. Having taken so major a step in removing barriers to participation by instituting the electronic filing initiative, it would be little short of tragic were any of the technical details of implementation to work to accidentally restrict or inhibit the crucial access so newly attained and gratefully received.

6. The Potential Concerns

Accordingly, NCD wishes to draw the Commission's attention to certain possible areas of concern. In doing so, we believe that the access issues addressed will result in the elimination of unnecessary barriers to all citizens, not only to those with disabilities. Our concerns and the recommendations to which they give rise may be characterized as relating to the infrastructure of electronic filing, which the Commission has embarked on creating.

The Commission proposes: "the primary mechanism for electronic filing of formal comments in rule-making proceedings should be a World Wide Web page form,[16] through which parties may upload their comments directly into a database or input brief comments directly. This mechanism would allow filing data to be submitted and verified automatically....a Web page interface will allow parties to use the same system to search for and download comments filed in a proceeding as they do to file their own comments. Such a system will also allow the Commission to provide additional documentation on filing requirements for those parties that require it, through additional Web pages linked to the comment filing form."

NCD wholeheartedly supports this approach, but notes that the manifold benefits of electronic filing will in fact accrue to all citizens only if the forms, pages and links in question are designed with accessibility in mind. Knowing as we do of the Commission's awareness of and commitment to this goal, and bearing in mind the familiarity with accessibility issues that has accrued to the Commission in the course of its work toward the implementation of Section 255 of the 1996 Act, we are pleased to indicate that the design strategies needed to ensure full accessibility are readily and fully achievable, and that, since the Commission has not yet designed or implemented the forms page, associated documentation or links in question, no question of retrofitting will be encountered. Additionally, since the Commission will be creating the data that is made available through this web site, no constraints associated with the formatting decisions of others need be foreseen.

Specifically, NCD believes that accessibility begins with the provision of the maximum feasible number of options for uploading, reading and downloading data. In this way the needs and preferences of the greatest possible range and number of potential commenters and readers can be readily accommodated. As this relates to the current proposal, we believe that accessibility involves the following:

A. The Commission should avoid, to the maximum extent possible, the exclusive reliance on any formats, protocols, languages or other modalities that require users of its electronic resources to purchase or utilize any particular software, browsers, document

formatters, printers or other products or systems.

Insofar as Commission information and participation in the comment process have traditionally been available to the public at little cost (save for copying and postage in certain instances), and inasmuch as the electronic filing process holds promise of eliminating or reducing even these minimal costs, the Commission should avoid any strategies that require those with Internet capability to use specific devices or proprietary products. We note in this regard that several documents currently contained on Commission Web pages appear to be formatted in PDF, which is difficult to access with adaptive equipment. Should the Commission determine to use this or any similar modality in connection with the electronic filing process, we believe it would at least be necessary, not only to provide a text-based alternative, such as plain ASCII, but also to make clear to all who visit the site that this or other alternatives are seamlessly available.

Similarly, we urge the Commission to avoid any web page design strategies that would in any way condition access on the use of a particular browser.

B. The Commission is to be commended for providing text versions of the documents and information included on its existing Web site. The availability of this option is critically important to many people, but experience indicates that the viability of such an option requires special attention to updating and maintenance on the part of those maintaining the site. The Commission should therefore make certain that in its adoption of internal operating procedures for managing and integrating the electronic filing process, the identity of content between multiple versions of the information be assured, and time frames for updating and changing content be identical.

C. For those potential commenters who wish to know more about the procedures governing their submissions, or who simply wish more background about the Commission and its work, linkages between the Form page and other informational pages will be a vital component of the electronic filing process. Inasmuch as it would serve no one's interests for the Commission to receive technically flawed filings, the effectiveness of these links will prove important, from the administrative as well as the substantive point of view.

For these reasons, special care must be taken in the means used to inform visitors to the Forms page of the existence of these other relevant pages. Links must be structured in such a way as to be readily apprehensible to persons using the text-based version, to persons using screen-readers and speech synthesizers, and to those who may lack the sophistication in Internet navigation that more experienced or professional users possess. Appropriate tagging, possibly the avoidance of including more than one link on each line, and other simple design strategies are available to assure that this can be done effectively.

D. Bearing in mind that a number of relatively less sophisticated Internet users will seek to comment on Commission notices or proposed rules, and given the Commission's desire to maximize their ability to do so effectively, the nature and availability of on-line or off-line

help, beyond what is imbedded in the Form page or in the instructions for downloading others' comments, may prove of significance.

In this connection, the Commission has requested comments regarding the use of other methods for collecting and disseminating information, such as CD-ROM's or bulletin boards. NCD believes that the utilization of such resources should be seriously considered, particularly during the initial period when electronic filing is being deployed and many new people are being drawn into the comment process. For instance, establishment of a direct-access bulletin board option, for those who have modems but are not yet skilled Internet users, would greatly facilitate both the efficiency and the accessibility of the electronic filing process. Operating ideally with an 800 number, and including an array of explanatory materials and help options, such an option could facilitate participation on the part of a number of people, as well as providing the Commission with a higher degree of quality control with respect to comments or informational queries that it receives.

E. Other linkages will be useful in maximizing public awareness of the electronic filing process that the Commission adopts. We therefore recommend that the Commission include in its planning systematic outreach efforts to other relevant Web site operators, particularly those in the disability community, designed to apprise them of the Commission's efforts in this area, and aimed at encouraging them to include links to the Commission's site or sites, wherever relevant to the subject matter of the site in question. Naturally, this approach will contribute to public awareness generally too.

7. Conclusion

In seeking to implement electronic filing, the Commission takes a bold step toward becoming a model for the deployment of state-of-the-art information technology on behalf of public participation and administrative efficiency. Few initiatives could be more consistent with the highest goals of government reinvention. Done thoughtfully and carefully, as the Commission intends, electronic filing can encourage participation in the process by all, irrespective of disability, and subject only to interest and knowledge of the issues. Done poorly or with inadvertent inattention to the nuts and bolts of access and user-friendliness, electronic filing could, to the dismay of all, become yet a further barrier to full participation by individuals with disabilities in their exercise of the prerogatives of citizenship generally, and in their efforts to communicate with the Commission on the legal issues of special and immediate concern to them. NCD is confident that the Commission will not allow barriers to develop, and grateful for the opportunity to offer its assistance, should it be needed in any way, in helping the Commission to resolve any design issues on which the Commission may wish to consult.